

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
ALBANY DIVISION

TIMOTHY POSTELL,

Petitioner

VS.

CARL HUMPHREY, Warden,

Respondent.

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**1 : 05-CV-96 (WLS)**

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**RECOMMENDATION**

Presently pending in this 28 U.S.C. § 2254 action is the petitioner's Motion for Summary Judgment. Inasmuch as the undersigned has issued a recommendation on the respondent's pending Motion to Dismiss, petitioner's Motion for Summary Judgment has been rendered moot. Accordingly, it is the recommendation of the undersigned that petitioner's motion be **DENIED**. Pursuant to 28 U.S.C. § 636(b)(1), the parties may file written objections to this recommendation with the Honorable W. Louis Sands, Chief United States District Judge, **WITHIN TEN (10) DAYS** of receipt thereof.

**SO RECOMMENDED**, this 11<sup>th</sup> day of August, 2006.

/s/ **Richard L. Hodge**

RICHARD L. HODGE

UNITED STATES MAGISTRATE JUDGE

asb